

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

IN RE: SANTA FE NATURAL TOBACCO  
COMPANY MARKETING & SALES PRACTICES  
AND PRODUCTS LIABILITY LITIGATION

LEAD CASE NO. MD 16-2695  
JB/LF

This Document Relates to All Cases,

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiffs respectfully submit Judge William Orrick's order in the *Juul Labs, Inc. MDL* as supplemental authority in support of their Motion for Class Certification. *In Re: Juul Labs, Inc. Marketing Sales Practices and Products Liability Litigation*, No. 19-md-02913-WHO, 2022 WL 2343268 (N.D. Cal. June 18, 2022) (attached as Exhibit A).

In *Juul*, the court granted e-cigarette-consumer plaintiffs' motion for class certification. The court certified a nationwide class and a California subclass for "*all persons who purchased, in the United States, a JUUL product*" based on the various causes of action respective to those classes. (emphasis added). Similar to Plaintiffs' claims here, the *Juul* plaintiffs alleged that the tobacco companies' marketing practices were deceptive: that their branding and marketing was pervasive; and that, despite using different wording or images, the marketing and branding conveyed a consistent message. *Id.* at \*27. The court rejected the types of contentions SFNTC and RJR raise here: that class members are too heterogeneous or that "each had different impressions of the impact (or materiality) of the misrepresented ... information." *Id.* at \*9-15 and \*27-31.

The *Juul* opinion is yet another example of a court finding that conjoint analysis can measure class-wide damages. *Id.* at \*15-20; and at \*48-56 (denying the *Juul* defendants' *Daubert* motion respecting the plaintiffs' economic damages expert).

July 1, 2022

Respectfully submitted,

By /s/Scott P. Schlesinger

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### **CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2022, I served a copy of the foregoing on the Clerk of Court by CM/ECF, which will provide notification to all parties and counsel of record.

By: s/ Jeffrey L. Haberman  
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